

Order

Michigan Supreme Court
Lansing, Michigan

September 20, 2019

Bridget M. McCormack,
Chief Justice

159430

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 159430
COA: 334807
Wayne CC: 16-000458-FC

KIJUAN MILLER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 12, 2019 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REVERSE Part II.A.4. of the Court of Appeals judgment entitled "OFFENSE-VARIABLE SCORING," we VACATE the sentence of the Wayne Circuit Court, and we REMAND this case to the trial court for resentencing. The prosecution concedes that the trial court erred by assigning five points to Offense Variable (OV) 16. The Court of Appeals erred by affirming the score of 10 points for OV 4 where the record fails to adequately support a finding that the victim suffered a *serious* psychological injury. MCL 777.34(2). The defendant is thus entitled to resentencing. *People v Kimble*, 470 Mich 305 (2004).

In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



a0917

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 20, 2019

Clerk